

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

DIDION MILLING, INC., DERRICK CLARK,
SHAWN MESNER, and JAMES LENZ,

22-cr-55-jdp

Defendants.

The court held a conference on September 29 to resolve any remaining disputes before trial. This order will summarize the court's rulings from the conference.

A. Motions

The motion to continue the trial, Dkt. 468, is GRANTED in part. The court will conduct jury selection beginning on October 2 at 9:00 a.m. After completing jury selection, the court will adjourn for the day and begin opening statements on October 3 at 10:00 a.m. Starting on Wednesday, trial will begin every day at 9:00 a.m. unless otherwise ordered by the court. The court will not hold trial on Columbus Day.

Lenz's motion to sever the charges against him, Dkt. 455, is DENIED. With Didion out of the case, much of the potential prejudice is eliminated. The broad nature of the court's ruling regarding coconspirator statements against Lenz makes it easier to explain to the jury what evidence can and can't be considered against Lenz.

Didion's motion to strike John Cholin's testimony, Dkt. 456, is DENIED as moot because Didion is no longer in the case and Cholin will not be testifying.

Messner's motion for attorney-conducted voir dire, Dkt. 472, is DENIED, for the same reasons that the court denied the previous request for attorney-conducted voir dire. Dkt. 392, at 36.

B. Exhibits

The parties agreed that the exhibits related to Expander 5 (the equipment that caught fire on 5/29/17) are not relevant with Count 2 being dismissed. So the court will exclude US2, 576a, 576b, 721a, 721b, 760, 836a, 836b, 845, and 846.

The court overruled defendants' objection to defendants' exhibit 3341a. The exhibit qualifies for the business-records exception to the hearsay rule.

C. Other issues

The court had previously allowed defendants a total of 15 peremptory strikes. Now that there are fewer defendants, the defendants will have a total of 12 strikes, or four strikes for each defendant.

Entered September 29, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge